

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR 2002-099248

03/17/2003

HON. BARBARA M. JARRETT

CLERK OF THE COURT  
M. Brown  
Deputy

FILED: 03/21/2003

STATE OF ARIZONA

JASON D JOHANNES

v.

KIMBERLY D GLOVER (A)

JASON R LEONARD

VICTIM SERVICES DIV-CA-SE

MINUTE ENTRY

The Court previously took under advisement Defendant Glover's Motion to Suppress, based upon allegations of Fourth Amendment violations. The Court now makes the following findings and enters the following orders.

**FACTUAL BACKGROUND:** On July 2, 2002, Deputy Craig Kurek conducted a traffic stop of a vehicle driven by Defendant Glover in which co-defendant Leetham was a passenger. The deputy estimated that Glover was driving approximately 35 mph in a 25 mph zone. Deputy Kurek testified at the suppression hearing that he observed that Glover failed to come to a complete stop at a stop sign and that she made a turn without using a signal.

Deputy Kurek contacted Glover after she stopped and asked her for identification. Glover then used both of her hands to reach into her purse, which was on the floorboard of the vehicle. Based upon officer safety concerns, Deputy Kurek asked Glover and Leetham to exit the vehicle. Both complied with his request. Leetham told the deputy that he had a knife on him, and the deputy found such a weapon in his waistband. Deputy Kurek observed a bulge in one of Leetham's pockets and conducted a Terry frisk of him. Deputy Kurek felt an object and recognized by feeling it that it was a pipe used to smoke methamphetamine. He also found a cell phone in Leetham's pocket. Deputy Kurek asked Leetham if he had any needles or methamphetamine in his pocket, and Leetham replied that he did not have any needles. Leetham admitted that he had methamphetamine in his back pocket. Deputy Kurek found a baggie of what appeared to be methamphetamine in Leetham's back pocket.

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Deputy Kurek asked Glover if she had any weapons on her. She denied having any weapons. Glover told the officer that she had prescription medications in her possession and showed him some percocet and vicodin pills. Glover said she did not have with her the container for the prescription medications.

Deputy Kurek ran a warrants check on both Glover and Leetham. He found out that Glover had no warrants, but Leetham had a warrant for driving on a suspended license. Deputy Kurek decided to arrest Glover for possession of the narcotic drugs percocet and vicodin without a prescription. He again asked her if she had any weapons, and she denied having any. She gave the deputy permission to search her vehicle, but grabbed her purse and told him he could not search it. Deputy Glover told her to put the purse down and tried to arrest her for having the drugs without a prescription. Glover resisted the arrest and broke free of the deputy's grip and fled. She still had her purse in her possession. As Deputy Kurek pursued Glover, he observed her toss her purse into the bed of a parked pick-up truck. As she did so, she yelled to the driver of the truck to "Go, go, go." Deputy Kurek caught up with Glover and took her to the ground. He was then able to grab her purse out of the back of the truck. Deputy Kurek arrested Glover and conducted a search of the purse. Inside it he found eight one inch by one inch plastic baggies of what appeared to be methamphetamine.

Amy Nielsen testified at the suppression hearing that she observed Glover's vehicle as Deputy Kurek was pursuing it and saw it stop at the stop sign. Kristi Sullivan also testified that she saw Glover stopped at the stop sign with her turn signal on.

DISCUSSION: Glover contends that the deputy violated her Fourth Amendment rights by conducting a traffic stop of the vehicle she was driving. The Court finds and determines that the traffic stop was lawful, based upon the deputy's observations that Glover was exceeding the posted speed limit. The deputy also testified that he observed other traffic violations being committed by Glover. Glover's witnesses contradicted his testimony in regard to the other traffic violations, however. The Court does not need to resolve the inconsistencies in the testimony, as Glover's excessive speed was sufficient to justify a traffic stop.

Glover further contends that the deputy violated her Fourth Amendment rights when he decided to arrest her for possession of percocet and vicodin without a valid prescription for those narcotic drugs. The Court disagrees. Based upon the manner in which the drugs were being carried by Glover (together in a black unmarked container), the deputy had probable cause to arrest her for possessing them without a valid prescription. The fact Glover claimed to have a valid prescription for the drugs did not negate the deputy's determination he had probable cause for an arrest. Since the deputy had probable cause to arrest Glover, he had authority to conduct a search of her purse incident to arrest.

Although the Court upholds the search of the purse as being incident to a lawful arrest, the Court would further find that Glover abandoned the purse by throwing it into the bed of a

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pick-up truck during her flight from the deputy. By abandoning the purse, she lost any expectation of privacy in the contents of the purse.

For all the preceding reasons,

IT IS ORDERED denying Defendant Glover's Motion to Suppress.